

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Bail Appl..No. 3857 of 2007()

CRL.M.C.NO.518/07 ON THE 1ST ADDL. SESSIONS JUDGE, KOZHIKODE.
CRIME NO.227 OF THAMARASSERY POLICE STATION.
.....

PETITIONERS/ACCUSED 1 & 2

1. SURESH, S/O. PARAMASIVAN, AGED 31 YRS,
PONNADAKUNNIL HOUSE, MANIYANGODU, KALPETTA.
2. JINU @ JINEESH RAJ, S/O. JAYARAJAN,
AGED 24 YEARS, KAPPUR NIVAS, KALPETTA.

BY ADV. SRI.LAL GEORGE

RESPONDENTS: COMPLAINANTS

1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, OFFICE OF THE ADVOCATE GENERAL,
ERNAKULAM.
2. STATION HOUSE OFFICER,
THAMARASSERY POLICE STATION, KOZHIKODE.

BY P.P. SRIJAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.NO. 3857 OF 2007

Dated this the 28th day of June, 2007

ORDER

Application for regular bail. The petitioners are accused 1 and 2. They were allegedly present in a car in which 29 x 35 litres of spirit in cans were being transported. The vehicle was intercepted. The contraband article was seized and the petitioners were arrested on 16/5/07. They continue in custody from that date.

2. The learned counsel for the petitioners submits that the petitioners have been in custody for a period exceeding 45 days by now. They may now be enlarged on bail, it is prayed.

3. The learned Public Prosecutor opposes the application. Investigation is not complete. Higher links in the chain which perpetrated the crime have not been arrested so far. Bail may not, in these circumstances, be granted to the petitioners, it is

prayed.

4. In the wake of opposition by the learned Public Prosecutor, bail can be granted to the petitioners only if this Court is in a position to entertain both the satisfactions contemplated in Sec.41A of the Kerala Abkari Act. I am unable to entertain either of those two satisfactions at this stage.

5. This petition is, in these circumstances, dismissed. I may hasten to observe that the dismissal of this petition will not in any way fetter the rights of the petitioners to claim bail by default under Sec.167(2) of the Cr.P.C. if the final report is not filed within the stipulated period or to approach the learned Sessions Judge or to this Court at a later stage of the investigation – not at any rate, prior to 12/7/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge